

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)

v.)

CRIMINAL NO. 03-

JAMES D. CANNON,)

Defendant.)

STATEMENT OF FACTS

The defendant, James D. Cannon ("Cannon"), was the President and owner of Benefits Concept Group, Inc. (BCG) located in Rosslyn, Virginia. Defendant Cannon purchased the company in 1997. BCG was a business which designed and administered pension benefit plans, including 403(b) tax deferred annuity plans. One of the customers of BCG was the Arlington Housing Corporation, Inc. ("AHC"), a non-profit business located in Arlington, Virginia, with approximately twenty employees. The AHC is in the business of building, developing and managing affordable housing for low income families and individuals. BCG had handled the AHC 403(b) pension plan since 1987. Defendant Cannon registered BCG as an investment advisory firm with the Securities and Exchange Commission in March 1998.

Each AHC employee maintained an individual retirement account, which was administered by BCG as AHC account number 279-092878. In early 2000, the value of the individual pension funds

began to decline. Defendant Cannon met with and presented an investment plan to the AHC employees whereby their accounts would be actively managed by BCG in return for management fees of one to five percent. The majority of AHC employees choose this option.

Additionally, defendant Cannon presented a plan to the AHC employees which solicited investments in his own, privately managed fund known as the BCG Managed Fund. Defendant Cannon claimed that many of his clients were invested in the highly successful fund. In fact, the BCG Managed Fund consisted of Fidelity Investments brokerage account number 479-109878, in the name Benefit Concepts Group, Inc. Since being opened by defendant Cannon in or about October 2000, the fund experienced no activity. Under Cannon's proposal, the AHC employees were to pay the costs of the fund's trades and the one to five percent management fee. Fifteen employees of AHC chose the BCG Managed Fund.

On or about August 6, 2001, defendant Cannon caused a transfer of \$248,080.00 from AHC account number 279-092878 to BCG Managed Fund account number 479-109878. Prior to this transfer, the BCG Managed Fund account had a zero balance, having realized no activity since being opened by defendant Cannon in or about October 2000.

On or about August 7, 2001, defendant Cannon drew a \$65,000.00 check on BCG Managed Fund account number 479-109878, which he deposited into BCG SunTrust account number 202946134. Cannon subsequently used this money to pay rent, legal fees and personal credit card expenses. Additionally, Cannon gave a portion of these funds to his girlfriend. This resulted in a combined loss of \$65,000 to fifteen AHC plan participants.

On August 7, 2001, defendant Cannon unlawfully and willfully embezzled, stole, and converted to his own use the money, funds, securities, credits and property, which were the assets of the AHC employee pension plan administered as the BCG Managed Fund account number 479-109878. The BCG Managed Fund is an employee benefit fund subject to the provisions of Title I of the Employee Retirement Income Security Act of 1974.

Respectfully submitted,

Paul J. McNulty
United States Attorney

By:

Robert C. Erickson
Assistant United States Attorney

SEEN AND AGREED:

James D. Cannon
Defendant

Danny C. Onorato, Esquire
Counsel for Defendant

Meredith A. Taylor, Esquire
Counsel for Defendant